

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

<b>MORGAN, LEWIS &amp; BOCKIUS LLP,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 08-cv-2748</b>
	)	
<b>CITY OF EAST CHICAGO,</b>	)	<b>Judge: Rebecca R. Pallmeyer</b>
	)	<b>Magistrate Judge:</b>
<b>Defendant.</b>	)	<b>Sidney I. Schenkier</b>

**MOTION TO COMPEL OF THE  
DEFENDANT, CITY OF EAST CHICAGO**

The Defendant, City of East Chicago, (“East Chicago”), by its attorneys, Eichhorn & Eichhorn, requests that the Court enter an order pursuant to Fed.R.Civ.P. 37 which: a) compels the Plaintiff, Morgan, Lewis & Bockius LLP, (“Morgan Lewis”), to produce certain documents identified in this motion and in East Chicago’s supporting Brief which are responsive to its Request For Production Nos. 1, 3, 4, 6 and 7, and permits East Chicago to supplement its Response to Morgan Lewis’ Motion To Remand, [DE 14], and re-depose/depose certain witnesses; or, in the alternative, b) denies Morgan Lewis’ Motion To Remand and/or strikes the Affidavit of Ms. Clare D’Agostino, styled as a “Declaration,” which is the purported evidentiary basis for Morgan Lewis’ motion.

1. East Chicago removed this matter to the United States District Court for the Northern District of Illinois on May 12, 2008. [DE 1-2, 6, 9] The Plaintiff, Morgan, Lewis & Bockius LLP, (“Morgan Lewis”), filed a Motion To Remand, (“motion”), on June 5, 2008. [DE 14]

2. On June 19, 2008, East Chicago issued a set of Requests For Production pursuant to the expedited discovery schedule which was established by the Court on June 9, 2008. (See attached Exhibit A, Plaintiff’s Responses And Objections To Defendant’s First Requests For Production,

generally, and Group Exhibit B, the Court's June 9, 2008 docket entry, [DE 17], and the transcript of the June 9, 2008 hearing.) These Requests For Production seek information relevant to two alleged Morgan Lewis partners whose domicile Morgan Lewis has asserted as a basis for this Court's lack of subject matter jurisdiction, Mr. Charles Lubar and Ms. Lisa Yano. [DE 14]

3. East Chicago requested that Morgan Lewis provide "All documents upon which Ms. Clare D'Agostino relied with regard to her Declaration of June 4, 2008." (See Exhibit A, Request No. 1, p. 3.) Ms. D'Agostino is the Affiant whose testimony serves as the basis for Morgan Lewis' motion and it did not object to this request. (See [DE 15, Exhibit A] and attached Exhibit A, Request No. 1, p. 3.) Instead, Morgan Lewis acknowledged that responsive documents were relevant and no specific privilege was asserted over any specific document until July 9, 2008. (See Exhibit A, Request No. 1, p. 3 and attached Exhibit C, East Chicago's Certification Of Good Faith Efforts To Resolve Discovery Disputes, ¶4.) East Chicago has recently learned, however, that certain e-mails and/or phone recordings from Mr. Lubar and Ms. Yano upon which Ms. D'Agostino relied to give her Affidavit testimony have not been produced and some may have been spoliated. (See Exhibit C, ¶4, attached Exhibit D, Deposition of Ms. D'Agostino, pp. 68-74, 81 and [DE 15, Exhibit A, ¶¶ 3 and 4].) These outstanding documents also are responsive to East Chicago's request for all documents which refer to the domicile or citizenship of Mr. Lubar and Ms. Yano in its Request For Production Nos. 3 and 4, respectively. (See Exhibit A, Request Nos. 3 & 4, pp. 4-7.) No privilege log or showing has been made to support a claim of privilege over any of these items. Ms. D'Agostino's Affidavit also is based upon these materials; privileged or not, any objection to producing them has been waived because Morgan Lewis has placed Mr. Lubar's and Ms. Yano's

domicile at issue and Ms. D'Agostino's testimony is based at least in part upon these documents. (See Exhibit C, ¶4; Exhibit D, pp. 68-74 and 81, and [DE 15, Exhibit A, ¶¶3-4].)

4. East Chicago also requested "All partnership agreements which form the basis for Plaintiff's claims that Mr. Lubar and Ms. Yano are partners of Morgan Lewis." (See Exhibit A, Plaintiff's Responses to Request For Production No. 6, p. 7.) Request No. 6 sought the very partnership agreement which allegedly establishes Mr. Lubar and Ms. Yano as Morgan Lewis partners as of May 12, 2008. Unless they are established as partners by this contractual agreement as of that date, they are not relevant to this Court's subject matter jurisdiction. *Carden v. Arkoma Assocs.*, 494 U.S. 185, 187 (1990). Ms. D'Agostino confirmed that the only way anyone can become a partner with Morgan Lewis is by executing a partnership agreement mutually binding by the consent of both the person and the partnership. (See Exhibit D, pp. 25-27.) The document may contain other relevant information, for example, a mandatory retirement policy may be relevant to Mr. Lubar's intent as to his place of domicile. Morgan Lewis has refused to produce this document. (Exhibit C, generally; Exhibit D, pp. 25-29, 34-37.)

5. Finally, East Chicago requested that Morgan Lewis provide "All documents which reflect an ownership or occupancy interest in real property held by Mr. Lubar and Ms. Yano, respectively, between January 1, 2002 and the present date. (See Exhibit A, Request No. 7, p. 7.) Request No. 7 sought real property documents which are highly relevant to the issue of Mr. Lubar's and Ms. Yano's place of domicile, the inquiry at issue for their citizenship. *Vlandis v. Kline*, 412 U.S. 441, 454 (1973). Morgan Lewis has objected to producing all documents responsive to Request No 7, including such as title documents, mortgage agreements, leases, full tax returns with real estate

schedules, which would show property held potentially as residences, the circumstances of ownership, duration, etc.

6. East Chicago has complied with the Court's Local Rule No. 37.2, which requires attorneys to confirm "(1) that after consultation in person or by telephone and good faith attempts to resolve differences they are unable to reach an accord, . . . ." (See Exhibit C.)

7. An order compelling Plaintiff to produce documents responsive to Production Request Nos. 1, 3-4, 6 and 7 is appropriate, particularly where Plaintiff's current objection based on relevancy grounds constitutes "an evasive or incomplete disclosure, answer or response." Responses of this sort will be treated by the rules as if it had not been answered at all. Fed.R.Civ.P. 37(a)(4). Morgan Lewis has refused to produce the e-mail correspondence and voice recording referenced by Ms. D'Agostino at pages 68-74 of her deposition, the Morgan Lewis partnership agreement executed by Mr. Lubar and Ms. Yano in effect on May 12, 2008, full federal tax returns for 2007 to show any real property schedules, and all other responsive documents to Request For Production No. 7 such as real property, title documents, sale documents, mortgages, leases, etc. which are responsive to certain of these requests. For the reasons stated in this motion and in East Chicago's supporting Brief, the Court should: a) compel the Plaintiff, Morgan Lewis, to produce these documents which are responsive to its Request For Production Nos. 1, 3, 4, 6 and 7, and permit East Chicago to supplement its Response to Morgan Lewis' Motion To Remand and re-depose Ms. D'Agostino and depose Mr. Lubar and Ms. Yano; or, in the alternative, b) deny Morgan Lewis' Motion To Remand and/or strike the Affidavit of Ms. Clare D'Agostino, styled as a "Declaration."

8. In support of its Motion To Compel, East Chicago incorporates its supporting Brief in its entirety and with all exhibits.

WHEREFORE, the Defendant, City of East Chicago, requests that the Court enter an order which: a) compels the Plaintiff, Morgan, Lewis & Bockius LLP, to produce the documents identified in this motion above and in East Chicago's supporting Brief which are responsive to its Request For Production Nos. 1, 3, 4, 6 and 7, and permits East Chicago to supplement its Response to Morgan Lewis' Motion To Remand and re-depose Ms. D'Agostino and depose Mr. Lubar and Ms. Yano; or, in the alternative, b) denies Morgan Lewis' Motion To Remand and/or strikes the Affidavit of Ms. Clare D'Agostino, styled as a "Declaration."

Respectfully submitted,

**EICHHORN & EICHHORN, LLP**

By: s/Robert J. Feldt

One of the attorneys for the Defendant,  
City of East Chicago

David C. Jensen

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219-931-0560

**CERTIFICATE OF SERVICE**

I, Robert J. Feldt, hereby certify that on the 10<sup>th</sup> day of July, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

F. Thomas Hecht  
Tina B. Solis  
UNGARETTI & HARRIS LLP  
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s/Robert J. Feldt

Robert J. Feldt

**EXHIBIT A TO THE JULY 10, 2008  
MOTION TO COMPEL  
OF THE DEFENDANT,  
CITY OF EAST CHICAGO**

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MORGAN, LEWIS & BOCKIUS LLP,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 08 CV 2748
	)	Judge Pallmeyer
CITY OF EAST CHICAGO,	)	Magistrate Judge Schenkier
	)	
Defendant.	)	

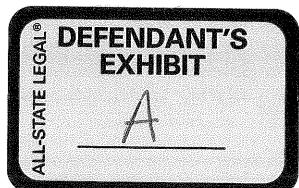
**PLAINTIFF'S RESPONSES AND OBJECTIONS TO  
DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiff Morgan, Lewis & Bockius LLP (“Plaintiff” or “Morgan Lewis”), hereby serves its Responses and Objections to Defendant the City of East Chicago’s (“Defendant” or “East Chicago”) First Requests for Production of Documents. Morgan Lewis reserves the right to supplement or amend its Objections and Responses to these Requests for Production in accordance with Rule 26(e) of the Federal Rules of Civil Procedure.

**GENERAL OBJECTIONS**

Morgan Lewis objects generally to East Chicago’s First Requests for Production of Documents to the extent that they call for information protected by the attorney-client privilege, attorney work product doctrine, or any other applicable privilege or defense.

Morgan Lewis also objects generally to East Chicago’s First Requests for Production of Documents to the extent they impose burdens, obligations, or requirements in excess of those required or permitted by the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Northern District of Illinois, or any other applicable rule or order issued by the Court.



Morgan Lewis further objects generally to East Chicago's First Requests for Production of Documents on the grounds they are vague, ambiguous, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Morgan Lewis further objects generally to East Chicago's First Requests for Production of Documents to the extent they contain no time limitation and are, therefore, temporally overbroad.

Morgan Lewis further objects generally to East Chicago's First Requests for Production of Documents to the extent the "Definition and Instructions" contained therein are overly broad.

Morgan Lewis further objects generally to East Chicago's First Requests for Production of Documents to the extent they exceed the scope of discovery permitted under the Court Order, dated June 9, 2008, permitting discovery on issues germane to the Motion to Remand.

Morgan Lewis further objects generally to East Chicago's First Requests for Production of Documents to the extent that the information and/or documents they seek is available from public sources.

Morgan Lewis further objects generally to East Chicago's First Requests for Production of Documents to the extent that the information and/or documents they seek is unreasonably cumulative, duplicative or obtainable from some other source that is more convenient, less burdensome or less expensive.

Subject to and without waiver of these General Objections, which are expressly incorporated by reference into each of the responses below, Morgan Lewis responds

more specifically.

**SPECIFIC OBJECTIONS AND/OR RESPONSES**  
(in addition to all General Objections)

**REQUESTS FOR DOCUMENTS**

**1. All documents upon which Ms. Clare D'Agostino relied with regard to her Declaration of June 4, 2008.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis responds that Clare D'Agostino ("Ms. D'Agostino") relied on documents maintained by Morgan Lewis in the ordinary course of business, including information from various files and/or databases on residence and the information available on the Morgan Lewis website regarding Charles Lubar ("Mr. Lubar") and Lisa Yano ("Ms. Yano"). This information and documents relevant to the Motion to Remand will be produced.

**2. All documents utilized as the basis for the representations about Mr. Lubar's citizenship, domicile or partnership in the *Swiger* matter, Civil Action No. 05-CV-5725, United States District Court for the Eastern District of Pennsylvania.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis will produce the first page of Mr. Lubar's 2005 United Kingdom tax return (ML00128); the first page of Mr. Lubar's 2004 United States tax return (ML00129); statements for bar dues paid by Mr. Lubar in 2004 and 2005 to the Maryland Bar; (ML00130-131); statements for bar dues paid by Mr. Lubar in 2004 and 2005 to the District of Columbia Bar (as an inactive member) (ML00132-133); a November 2005 statement from the Law Society regarding Mr. Lubar's registration as a Registered Foreign Lawyer (ML00134); Mr. Lubar's Washington, D.C. driver's license (ML00136); a June 2006 bank statement from Mr. Lubar's bank account with Coutts Bank, Geneva, Switzerland (ML00137); a July 2006 bank statement from Mr. Lubar's bank account with SunTrust Bank, Orlando, Florida,

which account is located in Washington, D.C. (ML00138-139); a 2004 interest statement from an account with Fleet National Bank, Scranton, Pennsylvania, relating to Mr. Lubar's payment of New York real estate tax (ML00147); a May 2006 statement from Mr. Lubar's Citigroup Global Markets, Inc. brokerage account (ML00140); January 2006 and March 2006 Chase mortgage loan statements for Mr. Lubar's apartment in New York, New York (ML00142-143); a June 2006 Citibank mortgage account statement for Mr. Lubar's apartment in New York, New York (ML00141); a July 2006 statement for payment of property maintenance fees for residential property owned by Mr. Lubar in London, United Kingdom (ML00144); a January 2006 statement for payment of property maintenance fees for Mr. Lubar's apartment in New York, New York (ML00145); a January 2005 statement regarding payment of real estate taxes for Mr. Lubar's apartment in New York, New York (ML00146); a 2004 United States tax return mortgage interest statement for Mr. Lubar's apartment in New York, New York (ML00148). Each of these documents is redacted so as not to reflect any confidential personal information.

**3. All documents which refer to Mr. Lubar's citizenship and/or domicile.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis will produce all of the documents described in response to Request No. 2 (ML00128-48), as well as Mr. Lubar's United Kingdom passport (ML00001-0037); Mr. Lubar's United States passport (ML00038-00067); Mr. Lubar's certificate of naturalization as a British citizen (ML00155); Mr. Lubar's business card (ML00069); Mr. Lubar's letterhead (ML00070); a statement for bar dues paid in 2007 by Mr. Lubar to the Maryland Bar (ML00071); a statement for bar dues paid in 2008 by Mr. Lubar to the District of Columbia Bar (as an inactive member) (ML00075); Mr. Lubar's 2006 application for renewal as a Registered

Foreign Lawyer (ML00072); a 2008 statement from the Law Society regarding Mr. Lubar's registration as a Registered Foreign Lawyer (ML00073); a June 24, 2008 e-mail from the Solicitors Regulation Authority confirming that Mr. Lubar is a Registered Foreign Lawyer (ML00074); a June 27, 2008 statement from the Solicitors Regulation Authority regarding Mr. Lubar's registration as a Registered Foreign Lawyer (ML00156); the cover sheet of Mr. Lubar's 2006 U.S. tax return (ML00076); the first page of Mr. Lubar's 2006 United States tax return (ML00077); Form 2555 of Mr. Lubar's 2006 United States tax return (ML00078-80); Form 1042-S of Mr. Lubar's 2007 United States tax return (ML00081); the first and second pages of Mr. Lubar's 2007 United Kingdom tax return (ML00082-83); September 2007 and May 2008 account statements from SunTrust Bank, Orlando, Florida which account is located in Washington, D.C. (ML00084-85); a March 2008 account statement for Leumi Bank, Jersey (ML00086); a March 2008 account statement from Citibank, New York, New York (ML00087); a January 2007 account statement from Coutts & Co. Bank, London, United Kingdom (ML00088); a June 2008 statement regarding Mr. Lubar's payment of rent for his apartment in London, United Kingdom (ML00096-97); a January 2008 gas bill for Mr. Lubar's apartment in London, United Kingdom (ML000103); an April 2008 electric bill for Mr. Lubar's apartment in London, United Kingdom (ML00104); a January 2008 tax bill for residential property owned by Mr. Lubar in London, United Kingdom (ML00100); April 2008 and June 2008 statements for Mr. Lubar's payment of property maintenance fees for residential property owned by Mr. Lubar in London, United Kingdom (ML00089, 00092-95); July 2007 and September 2007 statements for Mr. Lubar's payment of property maintenance fees for his apartment in New York, New

York (ML00090-91); April 2008 and May 2008 Citibank mortgage account statements for Mr. Lubar's apartment in New York, New York (ML00098-99); July 2007 and October 2007 gas and electric bills for Mr. Lubar's apartment in New York, New York (ML00101-102). Each of these documents is redacted so as not to reflect any confidential personal information.

**4. All documents which refer to Ms. Yano's citizenship and/or domicile.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis will produce the first page of Ms. Yano's United States passport (ML00105); Ms. Yano's Japanese driver's license (ML00107); Ms. Yano's Certificate of Alien Registration (ML00106); a statement for bar dues paid in 2008 by Ms. Yano to the California Bar (ML00109); a statement for bar dues paid in 2006 by Ms. Yano to the New York Bar (ML00111); a 2007 statement acknowledging Ms. Yano's change of attorney registration information for the New York Bar (ML00112); a 2008 statement from the New York State Unified Court System regarding Ms. Yano's registration as a member of the New York Bar (ML00110); Ms. Yano's Notice for Registration as Foreign Lawyer in Japan (ML00113-115); the Governmental Gazette providing notice of Ms. Yano's registration as a Foreign Lawyer; (ML00116); Ms. Yano's business card (ML00108); the first page of Ms. Yano's 2006 United States tax return (ML00117); an April 2008 bank account statement from Citibank (ML00118); a May 2008 consolidated bank and brokerage account statement from Citibank (ML00119); a May 2008 brokerage account statement from Fidelity Investments (ML00120); a May 2008 Citibank mortgage loan statement for residential property owned by Ms. Yano in Kanagawa-Ken, Japan (ML00121-123); a 2008 property registration statement for residential property owned by Ms. Yano in Kanagawa-Ken,

Japan (ML00125-127); a 2008 tax bill for Ms. Yano's condominium in Tokyo, Japan (ML00124). Each of these documents is redacted so as not to reflect any confidential personal information.

**5. Any document related to or showing that any individual classified as or considered to be a partner with Morgan Lewis is a citizen or domiciliary of the State of Indiana, and for each such individual, provide all partnership documents.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis responds by stating that there are no responsive documents to this request in Morgan Lewis' possession, custody, or control.

**6. All partnership agreements which form the basis for Plaintiff's claims that Mr. Lubar and Ms. Yano are partners of Morgan Lewis.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis objects to this request on the grounds that it is beyond the discovery authorized by the Court on issues related to the Motion to Remand. It is not reasonably calculated to lead to the discovery of admissible evidence. Morgan Lewis further responds by stating that information confirming Mr. Lubar and Ms. Yano's status as Morgan Lewis partners is publicly available on Morgan Lewis' website, on the Martindale-Hubbell Law Directory, and from various other similar sources. Morgan Lewis further responds by producing the letterhead of Mr. Lubar (ML00070) and the business card of Ms. Yano (ML00108), which acknowledge the status of each as "Partner."

**7. All documents which reflect an ownership or occupancy interest in real property held by Mr. Lubar and Ms. Yano, respectively, between January 1, 2002 and the present date.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis will produce the following documents regarding Mr. Lubar: January 2006 and March 2006 Chase

mortgage loan statements for Mr. Lubar's apartment in New York, New York (ML00142-143); a June 2006 Citibank mortgage account statement for Mr. Lubar's apartment in New York, New York (ML00141); a July 2006 statement for payment of property maintenance fees for residential property owned by Mr. Lubar in London, United Kingdom (ML00144); a January 2006 statement for payment of property maintenance fees for Mr. Lubar's apartment in New York, New York (ML00145); a January 2005 statement regarding payment of real estate taxes for Mr. Lubar's apartment in New York, New York (ML00146); a 2004 United States tax return mortgage interest statement for Mr. Lubar's apartment in New York, New York (ML00148); a June 2008 statement regarding Mr. Lubar's payment of rent for his apartment in London, United Kingdom (ML00096-97); a January 2008 gas bill for Mr. Lubar's apartment in London, United Kingdom (ML000103); an April 2008 electric bill for Mr. Lubar's apartment in London, United Kingdom (ML00104); a January 2008 tax bill for residential property owned by Mr. Lubar in London, United Kingdom (ML00100); April 2008 and June 2008 statements for Mr. Lubar's payment of property maintenance fees for residential property owned by Mr. Lubar in London, United Kingdom (ML00089, 00092-95); July 2007 and September 2007 statements for Mr. Lubar's payment of property maintenance fees for his apartment in New York, New York (ML00090-91); April 2008 and May 2008 Citibank mortgage account statements for Mr. Lubar's apartment in New York, New York (ML00098-99); and July 2007 and October 2007 gas and electric bills for Mr. Lubar's apartment in New York, New York (ML00101-102).

Morgan Lewis will produce the following documents regarding Ms. Yano: a May 2008 Citibank mortgage loan statement for residential property owned by Ms. Yano in

Kanagawa-Ken, Japan (ML00121-123); a 2008 property registration statement for residential property owned by Ms. Yano in Kanagawa-Ken, Japan (ML00125-127); and a 2008 tax bill for Ms. Yano's condominium in Tokyo, Japan (ML00124).

**8. All documents the Plaintiff utilized in preparing the purported data regarding Mr. Lubar that appears on the Plaintiff's website, which can be found on the World Wide Web at:**

<http://www.morganlewis.com/index.cfm/personID/4c4115b6-f068-4acf-99ae-66b044b64144/fromSearch/1/fuseaction/people.viewBio>.

**OBJECTIONS AND/OR RESPONSE:** East Chicago's request for documents encompasses numerous pieces of information and data on Morgan Lewis' website, including, *inter alia*, Mr. Lubar's photograph, practice areas, and civic involvements. Documentation regarding this information clearly is irrelevant to the issues presented by the Motion to Remand in the above-captioned action. In addition, the term "purported data" is vague and undefined, and Morgan Lewis has no basis for determining what information the term refers to. Subject to and without waiver of these objections, Morgan Lewis responds by stating that, upon information and belief, the information in Mr. Lubar's biography on the Morgan Lewis website is based on communications with Mr. Lubar, as well as documents maintained by Morgan Lewis in the ordinary course of business, including information from various files and/or databases. Morgan Lewis further responds by stating that some of the information on Mr. Lubar's biography is publicly available information accessible through the Martindale-Hubbell Law Directory and various other similar sources.

**9. All documents the Plaintiff utilized in preparing the purported data regarding Ms. Yano that appears on the Plaintiff's website, which can be found on the World Wide Web at:**

<http://www.morganlewis.com/index.cfm/personID/6ad4225b-629b-42b0-813e-28cc993cc35a/fromSearch/1/fuseaction/people.viewBio>.

**OBJECTIONS AND/OR RESPONSE:** East Chicago's request for documents encompasses numerous pieces of information and data on Morgan Lewis' website, including, *inter alia*, Ms. Yano's photograph, practice areas, and civic involvements. Documentation regarding this information clearly is irrelevant to the issues presented by the Motion to Remand in the above-captioned action. In addition, the term "purported data" is vague and undefined, and Morgan Lewis has no basis for determining what information the term refers to. Subject to and without waiver of these objections, Morgan Lewis responds by stating that, upon information and belief, the information in Ms. Yano's biography on the Morgan Lewis website is based on communications with Ms. Yano, as well as documents maintained by Morgan Lewis in the ordinary course of business, including information from various files and/or databases. Morgan Lewis further responds by stating that some of the information on Ms. Yano's biography is publicly available information accessible through the Martindale-Hubbell Law Directory and various other similar sources.

**10. With respect to Mr. Lubar, a copy of all passports held and all information evidencing the issuing nation for each passport.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis will produce Mr. Lubar's United Kingdom passport (ML00001-00037) and Mr. Lubar's United States passport (ML00038-00067), designated as confidential.

**11. With respect to Ms. Yano, a copy of all passports held and all information evidencing the issuing nation for each passport.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis will produce the first page of Ms. Yano's United States passport (ML00105), designated as confidential.

**12. All documents related to any naturalization, oath, process, action or test by which Mr. Lubar became a citizen or subject of any nation.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis will produce Mr. Lubar's United Kingdom passport (ML00001-00037) and his certificate of naturalization as a British citizen (ML00155), designated as confidential.

**13. All documents related to any naturalization, oath, process, action, or test by which Ms. Yano became a citizen or subject of any nation.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis responds by stating that there are no responsive documents to this request in Morgan Lewis' possession, custody, or control.

**14. All documents upon which the plaintiff relied to support the Motion and Memorandum to Remand this matter.**

**OBJECTIONS AND/OR RESPONSE:** Morgan Lewis objects to this request on the ground that it seeks material protected by the attorney-client privilege and work product privilege. Subject to and without waiver of these objections, Morgan Lewis will produce the Declaration of Clare D'Agostino, dated June 4, 2008 (ML00149-150); a copy of Mr. Lubar's biography reproduced from Morgan Lewis' website (ML00151-52); and a copy of Ms. Yano's biography, reproduced from Morgan Lewis' website (ML00153-54).

Dated: June 27, 2008

Respectfully submitted,



\_\_\_\_\_  
One of the Attorneys for  
MORGAN, LEWIS & BOCKIUS  
LLP

F. Thomas Hecht (ARDC #1168606)  
Tina B. Solis (ARDC #6242461)

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Ungaretti & Harris LLP  
3500 Three First National Plaza  
Chicago, Illinois 60602  
Telephone (312) 977-4400  
Facsimile (312) 977-4405

**CERTIFICATE OF SERVICE**

I, Seth A. Horvath, an attorney, hereby certify that I served a copy of the foregoing **PLAINTIFF'S RESPONSES AND OBJECTIONS TO DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS** on the attorneys listed below by Federal Express and electronic mail on June 27, 2008 at or before 5:00 p.m.

David C. Jensen, #18395  
Robert J. Feldt, #14284  
Eichhorn & Eichhorn, LLP  
200 Russell Street  
P.O. Box 6328  
Hammond, IN 46325

  
Seth A. Horvath

**EXHIBIT B TO THE JULY 10, 2008  
MOTION TO COMPEL  
OF THE DEFENDANT,  
CITY OF EAST CHICAGO**

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Rebecca R. Pallmeyer	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 2748	DATE	6/9/2008
CASE TITLE	Morgan, Lewis & Bockius LLP vs. City of East Chicago		

## DOCKET ENTRY TEXT

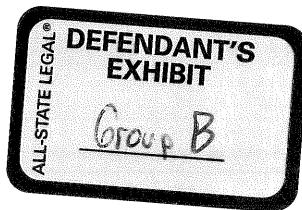
Plaintiff's motion to remand [14] entered and continued for briefing. Response 7/10/2008; reply 7/24/2008; ruling 7/31/2008 at 9:00. Parties to proceed promptly with discovery on issues germane to this motion. Plaintiff to respond to written disclosures within 7 days of receipt of Defendant's request, and promptly to produce the affiant for deposition.

Notices mailed by Judicial staff.

00:08

Courtroom Deputy Initials:	ETV
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08C2748 Morgan, Lewis &amp; Bockius LLP vs. City of East Chicago



Page 1 of 1

**Robert J. Feldt**

**From:** <usdc\_ecf\_ilnd@ilnd.uscourts.gov>  
**To:** <ecfmail\_ilnd@ilnd.uscourts.gov>  
**Sent:** Tuesday, July 01, 2008 3:08 PM  
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**United States District Court****Northern District of Illinois - CM/ECF LIVE, Ver 3.2.1****Notice of Electronic Filing**

The following transaction was entered on 7/1/2008 at 3:08 PM CDT and filed on 7/1/2008

**Case Name:** Morgan, Lewis & Bockius LLP v. City of East Chicago

**Case Number:** 1:08-cv-2748

**Filer:**

**Document Number:** 20

**Docket Text:**

TRANSCRIPT OF PROCEEDINGS held on 6/9/08 before the Honorable Rebecca R. Pallmeyer. Court Reporter Contact Information: FRANCES WARD (312)435-5561 OR frances\_ward@ilnd.uscourts.gov.

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Tina B. Solis tbsolis@uhlaw.com, acparker@uhlaw.com

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7160249a25ebbeffa8013f7cdb7986e83161051b342746e893337e9718e6]]

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MORGAN, LEWIS & BOCKIUS,  
LLP, }  
Plaintiff, } Docket No. 08 C 2748  
vs. }  
CITY OF EAST CHICAGO, } Chicago, Illinois  
Defendant. } June 9, 2008  
9:36 a.m.

TRANSCRIPT OF PROCEEDINGS - Motion  
BEFORE THE HONORABLE REBECCA R. PALLMEYER

## APPARANCES:

For the Plaintiff: UNGARETTI & HARRIS, LLP  
BY: MR. F. THOMAS HECHT  
MR. SETH HORVATH  
3500 Three First National Plaza  
Chicago, Illinois 60602

For the Defendant: EICHHORN & EICHHORN, LLP  
BY: MR. ROBERT J. FELDT  
200 Russell Street, P.O. Box 6328  
Hammond, Indiana 46320

Court Reporter: FRANCES WARD, CSR, RPR, FCRR  
Official Court Reporter  
219 S. Dearborn Street, Suite 2118  
Chicago, Illinois 60604  
(312) 435-5561  
frances\_ward@ind.uscourts.gov

1 THE CLERK: 08 C 2748, Morgan, Lewis & Bockius  
2 versus City of East Chicago on a motion.

3 MR. HORVATH: Good morning, your Honor.

6 MR. HECHT: Thomas Hecht, your Honor, for Morgan,  
7 Lewis as well.

8 THE COURT: Good morning.

9 MR. FELDT: Rob Feldt for the defendant.

10 THE COURT: Good morning.

11 This is also a motion for remand, correct?

12 MR. HORVATH: That's right, your Honor.

13 THE COURT: Is there a diversity problem?

14 Remind me of the nature of the motion.

15 MR. HORVATH: That's right. Our motion to remand  
16 argues that there is no diversity jurisdiction here. And the  
17 notice of removal that was filed is based entirely on the  
18 idea that there is diversity.

19 So our argument goes that because Morgan,  
20 Lewis & Bockius has two partners that are United States  
21 citizens domiciled abroad, they are stateless for purposes of  
22 diversity jurisdiction.

23 THE COURT: And if you are stateless, you can't  
24 bring a case -- you can't be in federal court; is that right?

25 MR. HORVATH: That's correct, your Honor.

## 1 THE COURT: Response?

2 MR. FELDT: Well, these are very complicated  
3 factual issues. We were just served with the motion last  
4 Wednesday. We need time to issue, take, and -- take  
5 discovery and brief the response. And I have asked already  
6 for information to try to speed that process up. I was  
7 rejected.

8 So what I would like, if your Honor is willing, is  
9 120 days to issue and obtain written and oral discovery with  
10 a response due 30 days after that.

14 THE COURT: You know, I wouldn't ever set 150 days'  
15 response date on a motion for remand in any event.

16                   But it seems to me the argument here is that there  
17                   are two members of Morgan, Lewis & Bockius who are not U.S.  
18                   citizens and, therefore, that that destroys diversity.

19 MR. FELDT: Correct.

20 THE COURT: That's a legal question.

21                   What I think there may be some factual issues  
22 regarding would be those two partners or members. And what I  
23 would suggest is that there be some written discovery on  
24 those individuals and then a response in, say, 30 days.

25 MR. FELDT: If I may, your Honor, there is an

1 affiant who is neither of the two partners that are alleged  
2 to be domiciled abroad. So at the very least, we are  
3 anticipating at least three depositions: the deposition of  
4 the affiant and the deposition of each of the partners who  
5 supposedly are the basis for no diversity jurisdiction.

6 MR. HORVATH: Your Honor, I am not sure that the  
7 depositions of the two partners who are in question here  
8 would be necessary, because the affiant is one of the  
9 assistant general counsel for Morgan, Lewis. And I could  
10 understand, perhaps, if there might be some further inquiry  
11 into her knowledge of the status of these two partners, but I  
12 don't think there is a need to depose the partners who are  
13 U.S. citizens domiciled abroad.

14 MR. FELDT: If I may, your Honor, domicile is an  
15 issue that has to go to the intent of the person involved.  
16 The person who has given the affidavit can only obtain  
17 whatever information on that issue by hearsay and other  
18 inadmissible forms of evidence.

19 Mr. Lubar, I believe his name is, for example, is,  
20 by my estimate, about 68 years old. And he is the one who is  
21 supposedly in London. If it was his intent to retire next  
22 month and move back to the states and he had had that goal  
23 for quite some time, that would be a highly relevant fact.

24 So those kind of issues are the issues that we need  
25 to obtain in order to have a proper response to this motion.

1                   THE COURT: Well, first of all, somebody's intent  
2 to move a month from now wouldn't alter the calculus, unless  
3 we are talking about somebody who's on a six-week assignment  
4 or something and that's what puts him in London. That would  
5 be a different story. That person is not a permanent  
6 resident of London. He is just visiting.

7                   But you are right that there be some factual issues  
8 along those lines.

9                   I guess I am more curious right now about the law  
10 and how it can be that if you have a foreign national -- or  
11 not a foreign national, but somebody residing outside the  
12 United States you can't possibly be in federal court. So I  
13 am more interested in the law myself.

14                  That having been said, I think it's appropriate for  
15 you to proceed with the deposition of the affiant and any  
16 documents relating to these two individuals.

17                  If you want to depose individuals who are abroad,  
18 that's a very complicated process. And I question the wisdom  
19 of that effort where we are really talking about what I  
20 understand to be a collection action. I think it's a  
21 collection action.

22                  So whether it proceeds in state court or federal  
23 court, the real issues are not where does somebody live and  
24 whether he intends to retire, but whether or not there is a  
25 basis to claim that City of East Chicago owes this law firm

1       \$3 million.

2                    MR. HORVATH: That's correct, your Honor.

3                    THE COURT: I hope we can keep our focus on that  
4 issue.

5                    But before that happens, we do need to decide  
6 whether I have got the case or whether somebody else does.

7                    So I am going to direct that you proceed with the  
8 deposition of the affiant and any written discovery with  
9 regard to these two, and then respond to the motion to remand  
10 within 30 days.

11                  Today is June 9th. So the response to the motion  
12 for remand would be due on July 10th. And then a reply, can  
13 we say July 24th?

14                  MR. HECHT: Yes, your Honor, that's fine.

15                  MR. HORVATH: That's fine, your Honor.

16                  Your Honor, there was also a pretrial conference  
17 scheduled in the case for the 26th of June.

18                  THE COURT: Right. We will strike that date. I  
19 think it was June 12th we had it set. Whichever date it is,  
20 it will be stricken.

21                  We now have a motion for -- the briefing on the  
22 motion for remand, and why don't we set a date for ruling  
23 sometime after July 24th. I am going to suggest July 31st at  
24 9:00 o'clock.

25                  MR. FELDT: In light of the fact that you have only

1 given me 30 days to respond, am I not allowed to take written  
2 discovery? which would have to be expedited to be completed  
3 within the 30 days.

4 THE COURT: The documents you need on this issue I  
5 think counsel should be able to produce within seven days.  
6 So why don't you put together a request and serve that on  
7 them.

8 MR. FELDT: Thank you.

9 THE COURT: Thank you.

10 MR. FELDT: One last issue. There is one other  
11 calendar date. Our responsive pleading is due next week. I  
12 think it's either the 18th or 19th. In light of the pending  
13 motion to remand, can we hold that obligation in abeyance  
14 until after there is a ruling?

15 It was our intent to move to dismiss and ask the  
16 Court to transfer the case to the Northern District of  
17 Indiana. If you are not going to keep the case, we would  
18 just as soon make that motion in state court and not --

19 THE COURT: What's the basis for the motion to  
20 dismiss?

21 MR. FELDT: Contesting personal jurisdiction.

22 THE COURT: Okay. So that, too, would be a matter  
23 of whether it's going here or going there.

24 MR. FELDT: That's my point. And I don't think  
25 that it would be efficient for us to file the motion and then

1 you just simply hold that one in abeyance until you resolve  
2 the remand. If you end up sending it back to state court,  
3 then you won't see the motion at all.

4 THE COURT: Right. I will enter and continue your  
5 response date to the pleadings.

6 All right. July 31st at 9:00 o'clock.

7 In the meantime, the response to the motion for  
8 remand will be filed on July 10th and the reply on July 24th.

9 MR. FELDT: Thank you.

10 MR. HORVATH: Thank you, your Honor.

11 MR. HECHT: Thank you.

12 \* \* \* \* \*

13 I certify that the foregoing is a correct transcript from the  
14 record of proceedings in the above-entitled matter.

15 F \_\_\_\_\_, 2008.  
16 Official Court Reporter  
17  
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**EXHIBIT C TO THE JULY 10, 2008  
MOTION TO COMPEL  
OF THE DEFENDANT,  
CITY OF EAST CHICAGO**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

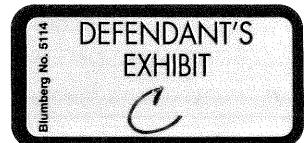
<b>MORGAN, LEWIS &amp; BOCKIUS LLP,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 08-cv-2748</b>
	)	
<b>CITY OF EAST CHICAGO,</b>	)	<b>Judge: Rebecca R. Pallmeyer</b>
	)	<b>Magistrate Judge:</b>
<b>Defendant.</b>	)	<b>Sidney I. Schenkier</b>

**CERTIFICATION OF GOOD FAITH EFFORTS TO  
RESOLVE DISCOVERY DISPUTES OF THE DEFENDANT,  
CITY OF EAST CHICAGO, IN SUPPORT OF ITS MOTION TO COMPEL**

The Defendant, City of East Chicago, (“East Chicago”), herein certifies that it has fully complied with Fed.R.Civ.P. 37(a)(1), which requires that a party moving to compel disclosure or discovery “must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action,” as well as N.D. Ill. L.R. 37.2. In support of its Certification, East Chicago states as follows:

1. After the Plaintiff refused to produce documents responsive to East Chicago’s June 19, 2008 Request for Production No. 6, in particular the applicable partnership agreement, counsel for East Chicago, Mr. Robert Feldt, wrote to counsel for the Plaintiff, Ms. Tina Solis, to attempt to resolve the dispute over these discovery materials. On July 2, 2008, Mr. Feldt wrote:

I note that certain documents were withheld in the Plaintiff’s Responses to Requests For Production, albeit not as privileged. In particular you have withheld the partnership agreements. The partnership agreements are the legal documents which create the status of partner, by the consent of both the individual and the partnership, which is the very basis for your claim that Mr. Lubar and Ms. Yano defeat diversity jurisdiction. The partnership agreements are highly relevant and we are not required to accept the Plaintiff’s hearsay representations that Mr. Lubar and Ms. Yano were



partners at the relevant time. . . Please reconsider your refusal to provide these documents.

(See attached Certification Exhibit No. 1, e-mail correspondence between counsel.)

2. Mr. Feldt then spoke on July 2, 2008 by telephone shortly after he sent his July 2, 2008 e-mail correspondence at 10:35 a.m. with Ms. Solis to discuss these discovery issues. Ms. Solis again stated that Morgan, Lewis & Bockius LLP, ("Morgan Lewis"), would not produce the requested documents set forth in Mr. Feldt's attached e-mail correspondence but would revisit the issue. Both attorneys were in their respective offices.

3. On July 2, 2008 Ms. Solis wrote to Mr. Feldt, "We have conferred with our client and will stand on our objections with respect to the request for the partnership agreements. . ." (See attached Certificate Exhibit No. 1.)

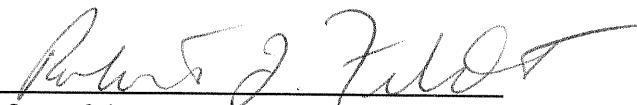
4. During the July 3, 2008 telephonic deposition of Ms. Clare D'Agostino, the Affiant in support of Morgan Lewis' Motion To Remand, [DE14-15], Mr. Feldt attempted to question Ms. D'Agostino regarding her knowledge of the Morgan Lewis' partnership agreement at approximately 1:30-2:30 p.m. Ms. Solis objected to all of Mr. Feldt's attempts, however, and the attorneys conferred again as to this issue and Ms. D'Agostino was directed not to answer. (See East Chicago's Motion To Compel, Exhibit D, portions of the Deposition of Ms. D'Agostino, pp. 25-29.) The attorneys were in their respective offices during this telephonic conference/deposition. Mr. Feldt also learned during the deposition for the first time that ¶¶ 3-4 Ms. D'Agostino's June 4, 2008 Declaration was based at least in part upon e-mail correspondence from Mr. Charles Lubar and Ms. Lisa Yano and a possible voice recording of Ms. Yano. (See Exhibit D, pp. 68-74, 81.) Mr. Feldt conferred again with Ms. Solis by telephone at approximately 10:00-11:00 a.m. on July 9, 2008 to

obtain these e-mails and voice recording, the partnership agreement(s), real property documents responsive to East Chicago's Request For Production No. 7 such as title papers, mortgages, tax returns with leases and real estate schedules but Morgan Lewis again refused through Ms. Solis. Ms. Solis also noted at that time that a privilege objection was being raised as to the e-mails to which Ms. D'Agostino referred in her deposition from Mr. Lubar and Ms. Yano. Both attorneys were located in their respective offices.

5. Despite the good faith and reasonable efforts which are discussed in this Certification to resolve these disputes over Morgan Lewis' written discovery responses both in writing and by several telephone conferences, the parties have been unable to resolve the discovery disputes over the documents which are identified in this Certification.

Respectfully submitted,

**EICHHORN & EICHHORN, LLP**

By: 

One of the attorneys for the Defendant,  
City of East Chicago

David C. Jensen  
Robert J. Feldt  
**EICHHORN & EICHHORN, LLP**  
200 Russell Street  
P.O. Box 6328  
Hammond, IN 46320  
219-931-0560

**Robert J. Feldt**

**From:** "Solis, Tina B." <tbsolis@uhlaw.com>  
**To:** "Robert J. Feldt" <rfeldt@eichhorn-law.com>  
**Cc:** "Horvath, Seth A." <sahorvath@uhlaw.com>  
**Sent:** Wednesday, July 02, 2008 3:06 PM  
**Subject:** RE: Clare D'Agostino Deposition

Mr. Feldt:

We have conferred with our client and will stand on our objections with respect to the request for the partnership agreements. While we will adhere to our continuing duty to supplement pursuant to the federal rules, we will not be producing any additional documents prior to the deposition tomorrow.

Sincerely,

Tina B. Solis

---

**From:** Robert J. Feldt [mailto:[rfeldt@eichhorn-law.com](mailto:rfeldt@eichhorn-law.com)]  
**Sent:** Wednesday, July 02, 2008 10:35 AM  
**To:** Solis, Tina B.  
**Cc:** Horvath, Seth A.  
**Subject:** Re: Clare D'Agostino Deposition

Dear Ms. Solis,

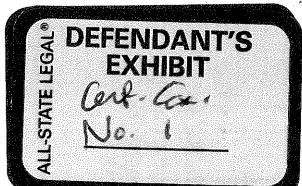
We will be sending additional, separate notices of deposition to you today for the witnesses for whom we sent the federal form notices/subpoenas to you yesterday. We still would appreciate your written confirmation by return e-mail correspondence of your agreement with the procedure proposed for Ms. D'Agostino's deposition.

Also, I note that certain documents were withheld in the Plaintiff's Responses to Requests For Production, albeit not as privileged. In particular you have withheld the partnership agreements. The partnership agreements are the legal documents which create the status of partner, by the consent of both the individual and the partnership, which is the very basis for your claim that Mr. Lubar and Ms. Yano defeat diversity jurisdiction. The partnership agreements are highly relevant and we are not required to accept the Plaintiff's hearsay representations that Mr. Lubar and Ms. Yano were partners at the relevant time. We also are entitled to Ms. Yano's entire passport in order to show her travels outside the United States. If Mr. Lubar's passport was not produced in its entirety, we are entitled to his complete passport, as well. Finally, complete tax returns were not produced, which would have included any schedules related to real property owned. Please reconsider your refusal to provide these documents.

Very Truly Yours,

---

Robert J. Feldt  
Eichhorn & Eichhorn, LLP  
200 Russell Street  
P.O. Box 6328



7/2/2008

Hammond, IN 46325  
rfeldt@eichhorn-law.com  
(219) 931-0560, ext. 136 - voice  
(219) 931-5370 - facsimile trans.

----- Original Message -----

**From:** Solis, Tina B.  
**To:** Robert J. Feldt  
**Cc:** Horvath, Seth A.  
**Sent:** Monday, June 30, 2008 2:23 PM  
**Subject:** Clare D'Agostino Deposition

Mr. Feldt:

I left you a voicemail earlier this afternoon regarding Ms. D'Agostino's availability this week for deposition. Please call me back as soon as possible so we can schedule the deposition this week. Thank you in advance for your prompt response.

Sincerely,

Tina B. Solis

Information contained in this email transmission is privileged and confidential. If you are not the intended recipient, do not read, distribute or reproduce this transmission (including any attachments). If you have received this email in error, please notify the sender by email reply.

To ensure compliance with requirements imposed by the IRS, we inform you that, unless otherwise expressly indicated, any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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**Robert J. Feldt**

---

**From:** "Robert J. Feldt" <rfeldt@eichhorn-law.com>  
**To:** "Solis, Tina B." <tbsolis@uhlaw.com>  
**Cc:** "Horvath, Seth A." <sahorvath@uhlaw.com>  
**Sent:** Wednesday, July 02, 2008 11:13 AM  
**Subject:** Re: Clare D'Agostino Deposition

Dear Ms. Solis,

Thank you for your response. Of course, if you do change your position as to the documents, we will need them with sufficient time for review and to get them to Ms. D'Agostino before the start of her deposition.

Very Truly Yours,

---

Robert J. Feldt  
Eichhorn & Eichhorn, LLP  
200 Russell Street  
P.O. Box 6328  
Hammond, IN 46325  
rfeldt@eichhorn-law.com  
(219) 931-0560, ext. 136 - voice  
(219) 931-5370 - facsimile trans.

----- Original Message -----

**From:** Solis, Tina B.  
**To:** Robert J. Feldt  
**Cc:** Horvath, Seth A.  
**Sent:** Wednesday, July 02, 2008 10:41 AM  
**Subject:** RE: Clare D'Agostino Deposition

Robert:

We agree to the procedure set forth in your letter dated July 1, 2008 for Ms. D'Agostino's deposition. I will have to confer with my client as to the other issues you raise with respect to our document production.

Sincerely,

Tina Solis

---

**From:** Robert J. Feldt [mailto:rfeldt@eichhorn-law.com]  
**Sent:** Wednesday, July 02, 2008 10:35 AM  
**To:** Solis, Tina B.  
**Cc:** Horvath, Seth A.  
**Subject:** Re: Clare D'Agostino Deposition

Dear Ms. Solis,

We will be sending additional, separate notices of deposition to you today for the witnesses for whom

we sent the federal form notices/subpoenas to you yesterday. We still would appreciate your written confirmation by return e-mail correspondence of your agreement with the procedure proposed for Ms. D'Agostino's deposition.

Also, I note that certain documents were withheld in the Plaintiff's Responses to Requests For Production, albeit not as privileged. In particular you have withheld the partnership agreements. The partnership agreements are the legal documents which create the status of partner, by the consent of both the individual and the partnership, which is the very basis for your claim that Mr. Lubar and Ms. Yano defeat diversity jurisdiction. The partnership agreements are highly relevant and we are not required to accept the Plaintiff's hearsay representations that Mr. Lubar and Ms. Yano were partners at the relevant time. We also are entitled to Ms. Yano's entire passport in order to show her travels outside the United States. If Mr. Lubar's passport was not produced in its entirety, we are entitled to his complete passport, as well. Finally, complete tax returns were not produced, which would have included any schedules related to real property owned. Please reconsider your refusal to provide these documents.

Very Truly Yours,

---

Robert J. Feldt  
 Eichhorn & Eichhorn, LLP  
 200 Russell Street  
 P.O. Box 6328  
 Hammond, IN 46325  
 rfeldt@eichhorn-law.com  
 (219) 931-0560, ext. 136 - voice  
 (219) 931-5370 - facsimile trans.

----- Original Message -----

**From:** Solis, Tina B.  
**To:** Robert J. Feldt  
**Cc:** Horvath, Seth A.  
**Sent:** Monday, June 30, 2008 2:23 PM  
**Subject:** Clare D'Agostino Deposition

Mr. Feldt:

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Sincerely,

Tina B. Solis

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federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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**CERTIFICATE OF SERVICE**

I, Robert J. Feldt, hereby certify that on the 10<sup>th</sup> day of July, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

F. Thomas Hecht  
Tina B. Solis  
UNGARETTI & HARRIS LLP  
3500 Three First National Plaza  
Chicago, IL 60602  
[fthecht@uhlaw.com](mailto:fthecht@uhlaw.com)  
[tbsolis@uhlaw.com](mailto:tbsolis@uhlaw.com)

  
\_\_\_\_\_  
Robert J. Feldt

**EXHIBIT D TO THE JULY 10, 2008  
MOTION TO COMPEL  
OF THE DEFENDANT,  
CITY OF EAST CHICAGO**

1 IN THE DISTRICT COURT OF THE UNITED STATES  
2 FOR THE NORTHERN DISTRICT OF ILLINOIS  
3 EASTERN DIVISION

4 MORGAN, LEWIS & BOCKIUS LLP, )  
5 Plaintiff, )  
6 -vs- ) No. 08 CV 2748  
7 CITY OF EAST CHICAGO, )  
8 Defendant. )

9  
10 Deposition of CLARE D'AGOSTINO via telephone, taken  
11 before DONNA L. POLICICCHIO, C.S.R., and Notary Public,  
12 pursuant to the Federal Rules of Civil Procedure for the  
13 United States District Courts pertaining to the taking of  
14 depositions, at 200 Russell Street, Eighth Floor,  
15 Hammond, Indiana, commencing at 1:02 p.m., on the 3rd day  
16 of July, 2008.

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Page 25

1 can go ahead. I think the question has already been  
2 asked and answered, but she's welcome to answer it  
3 again.

4 A You previously asked me to make a statement,  
5 and I made an estimate of 450 being U.S. citizens.

6 BY MR. FELDT:

7 Q Okay. Does that mean then 436 of the 450 are  
8 U.S. citizens who are domiciled within one of the 50  
9 United States?

10 A It does.

11 Q Are there other people who serve in the same  
12 position as you to the partnership?

13 A There is not.

14 Q Do you have one superior?

15 A Yes.

16 Q And that would be --

17 A That would be the general counsel to the firm.

18 Q And who is that?

19 A The person's name is Michael, M-I-C-H-A-E-L,  
20 Bloom, B-L-O-O-M.

21 Q How does a person become a partner with  
22 Morgan Lewis?

23 MS. SOLIS: Objection. I think that's a little  
24 vague, but go ahead, Clare, if you know.

1       A    There are two typical ways of becoming a  
2   partner at Morgan Lewis, either to join sometime in  
3   the associate years, either directly out of law  
4   school or the first year -- as a first-year  
5   associate, or to lateral in with some sort of  
6   experience, and then after a number of years, and  
7   it's greatly divergent as to how many years that will  
8   be, an associate may be proposed for partnership or  
9   in the interim the person might be promoted to  
10   typically an of-counsel position and perhaps promoted  
11   from there. Alternatively, a person may become a  
12   partner by joining the firm by lateralizing in and  
13   being admitted to the partnership immediately.

14   BY MR. FELDT:

15   Q    Okay. When someone is either lateraled in or  
16   asked to join the partnership, is signing a  
17   partnership agreement a prerequisite for being  
18   considered to be a Morgan Lewis partner?

19   A    As a part of the process, a lateral partner,  
20   when an offer is extended, they will be asked to sign  
21   our partnership agreement.

22   Q    Okay. And what about someone who is an  
23   associate who is asked to join the firm, do they also  
24   have to sign a partnership agreement?

1 A They do.

2 Q Can anyone be a partner at Morgan Lewis  
3 without signing a partnership agreement?

4 A They cannot.

5 Q I'm not asking for privileged information  
6 here. All I want to know is whether you understand  
7 what kind of suit this lawsuit by Morgan Lewis  
8 against the City of East Chicago is.

9 Do you know the kind of claim that's raised  
10 in this lawsuit?

11 A I do, very basically.

12 Q And that's all I'm interested in.

13 Do you basically understand it's an action  
14 in order to collect attorneys' fees allegedly earned  
15 by Morgan Lewis to be allegedly paid by the City of  
16 East Chicago?

17 A I so understand, yes.

18 Q All right. Can an individual partner bring  
19 this kind of collection suit or does this right of  
20 action belong only to the partnership as a  
21 collective?

22 MS. SOLIS: Objection. That calls for a legal  
23 conclusion. She has testified that she is not  
24 involved in any litigation matters, and I think that

1 goes beyond her testimony here today as a fact  
2 witness despite the fact that she has a J.D.

3 MR. FELDT: Okay.

4 BY MR. FELDT:

5 Q Do you have an understanding of the terms of  
6 the partnership agreement which Mr. Lubar would have  
7 signed and been a part of and Ms. Yano would have  
8 signed and been a part of, say, beginning in 2004  
9 going up to the present?

10 MS. SOLIS: Objection. Clare, I don't want you  
11 to divulge any substantive knowledge about the  
12 partnership agreement, but I believe you can answer  
13 that question with a yes or no.

14 A I would like to hear the question again.

15 BY MR. FELDT:

16 Q Do you know the terms of the partnership  
17 agreement to which Mr. Lubar and Ms. Yano would have  
18 been a party with Morgan, Lewis & Bockius LLP in  
19 effect from the years 2004 to the present?

20 A I do.

21 Q I'll ask the question again. I know you're  
22 going to object, Tina, but I just want to get it on  
23 the record again.

24 Do the partnership agreements to which

Page 29

1 Mr. Lubar and Ms. Yano that they were parties to with  
2 Morgan, Lewis & Bockius LLP from 2004 to the present  
3 allow them to sue individually for the fees allegedly  
4 earned by Morgan, Lewis & Bockius to be paid by the  
5 City of East Chicago or does that right exist in the  
6 partnership agreement only as a collective right of  
7 the partnership itself?

8 MS. SOLIS: Same objection as before. I think  
9 this goes beyond her testimony as a fact witness here  
10 today. She's not called as an expert. She is not a  
11 practicing lawyer nor does she have involvement with  
12 this lawsuit from an attorney perspective, so I'm  
13 going to instruct her not to answer that question.

14 MR. FELDT: All right. Okay. I'll move on then.

15 MS. SOLIS: Not to mention I think it calls for a  
16 legal conclusion too, but I'll let that one go.

17 MR. FELDT: Well, I'd be happy to look at the  
18 document.

19 MS. SOLIS: I know you would, Rob, but we don't  
20 want you to do that.

21 MR. FELDT: I know.

22 BY MR. FELDT:

23 Q Let me talk to you a little bit then about  
24 Charles Lubar.

1 have access to his travel schedule?

2 A I do not.

3 Q Do you know how many times he's been in the  
4 United States in the year 2008?

5 A I do not.

6 Q Do you know where he was on the day that City  
7 of East Chicago filed its notice of removal May 12th,  
8 2008?

9 A I do not.

10 Q Do you know anything about where he keeps his  
11 bank accounts?

12 A I have certain information from the various  
13 documents that were produced and which were shared  
14 with me showing where certain accounts are, so yes.

15 Q In your normal activities in your job, would  
16 you have reason to see those documents or is the only  
17 reason you saw them because we asked for certain  
18 discovery in this litigation?

19 A That is correct, the latter.

20 Q The latter?

21 A The latter.

22 Q Have you ever -- Well, let me back up just a  
23 second.

24 Does Morgan Lewis have a mandatory

1 retirement age?

2 A I cannot answer that question.

3 Q Does that mean that you don't know or there  
4 is some reason that you feel compelled not to answer?

5 MS. SOLIS: I'm just going to interpose an  
6 objection here. Clare, if you think that it's going  
7 to violate some sort of confidential or privileged  
8 information, maybe we need to take a break.

9 THE WITNESS: I think we should take a break.

10 MS. SOLIS: Rob, can we -- I don't know how you  
11 want to do this.

12 MR. FELDT: Can you call her on a separate phone?

13 MS. SOLIS: Okay. We will -- We're going to keep  
14 it on this line and then we're going to go to a  
15 separate office. Clare, do you have an empty office  
16 close to you?

17 THE WITNESS: I can put this on hold and you can  
18 call my cell phone.

19 MS. SOLIS: Okay. All right. Why don't you give  
20 me that number and we'll go do that.

21 THE WITNESS: 267 --

22 MS. SOLIS: 267.

23 THE WITNESS: 303 --

24 MS. SOLIS: 303.

1 THE WITNESS: -- 3392.

2 MS. SOLIS: 3392. We will call you momentarily.

3 THE WITNESS: Okay. I'll put this on hold.

4 MS. SOLIS: We'll be right back, Mr. Feldt.

5 MR. FELDT: All right.

6 (Recess was taken.)

7 MS. SOLIS: So the record is clear, Rob, you can  
8 go ahead and ask the question again and we'll make a  
9 clear record on this.

10 MR. FELDT: Okay.

11 BY MR. FELDT:

12 Q Does Morgan Lewis have a mandatory retirement  
13 age for attorneys?

14 MS. SOLIS: And I'm going to object to that  
15 question. I think we're getting pretty far afield  
16 for the purposes on which we're here today in which  
17 Judge Pallmeyer ordered the affiant's deposition. I  
18 don't know what this has to do with citizenship or  
19 what it has to do with the motion to remand, so I'm  
20 not only objecting on that basis, but I'm going to  
21 object on the fact that I think it would require us  
22 to disclose some confidential information. I'm going  
23 to instruct the witness not to answer that one.

24 MR. FELDT: All right. Well, as far as the

1 relevance, it certainly goes to his intent of  
2 maintaining a domicile if he's nearing retirement,  
3 and obviously I'm not getting to ask him that  
4 question because you've objected to producing him. I  
5 shouldn't have to explain the relevance because  
6 relevance is not a basis for directing a witness not  
7 to answer, and if it's confidential information, we  
8 certainly can agree that the testimony is subject to  
9 the confidentiality order that's already in place.

10 MS. SOLIS: Well, I think there is an easier way  
11 to get your answer. Why don't you just ask Clare  
12 that direct question. I mean, if that's what you're  
13 looking for is if he has an intent to move when he  
14 retires, I don't know, maybe she knows that. Why  
15 don't you just ask the direct question.

16 MR. FELDT: Well, I can, and I can ask the other  
17 question as well, but I'll ask her that question if  
18 you're telling me that you're going to stand on your  
19 objections.

20 MS. SOLIS: We're going to stand on our objection  
21 on that one.

22 MR. FELDT: All right.

23 BY MR. FELDT:

24 Q All right. To come back to Mr. Lubar,

1 Ms. Yano is living in Tokyo in the way that I live in  
2 Philadelphia, Pennsylvania. I live here. That's  
3 what I meant.

4 Q I'm just making a note to myself, so bear  
5 with me.

6 Do you know how much time Mr. Lubar spends  
7 in London in his private residence on a monthly  
8 basis?

9 A I believe that we've already discussed that  
10 in a slightly different way and we concluded that I  
11 do not have access to either Mr. Lubar or, if you're  
12 going there, Ms. Yano's travel arrangements, so I  
13 cannot answer that question.

14 Q Okay. I appreciate that. I'm asking the  
15 question in a specific form, so bear with me.

16 I'm going to ask you the same question with  
17 regard to Mr. Lubar's apartment in New York. Do you  
18 know how much time Mr. Lubar spends in his apartment  
19 in New York on a monthly basis?

20 A Personally, I do not.

21 Q In Paragraph 3 then, when you say  
22 "Specifically, Charles G. Lubar is a partner resident  
23 in our London office," does that mean that you  
24 think -- or do you use that term to mean that he

1 works out of the London office?

2 A That is correct. It is a term that we use  
3 here when we talk about where partners -- anyone is  
4 working, I would say they are resident in, Mr. Lubar,  
5 the London office. If someone was speaking about me,  
6 they would say I am resident in the Philadelphia  
7 office.

8 Q And when you say "here," you mean within  
9 Morgan Lewis?

10 A Yes, within Morgan Lewis. That's how we talk  
11 about people's office location.

12 Q Now, you indicate in Paragraph 3 "Mr. Lubar  
13 has no immediate plans to leave the United Kingdom  
14 and to return to the U.S. to live on a permanent  
15 basis."

16 What is that based upon?

17 A That is based upon interaction with  
18 Mr. Lubar, I believe it was via e-mail, asking him  
19 about his intent.

20 Q Okay. And when was the e-mail?

21 A Around the end of May or the beginning of  
22 June.

23 Q All right. Did you initiate the e-mail?

24 MS. SOLIS: I'm sorry. You cut out a little bit,

1 Rob. Can we have that one again?

2 BY MR. FELDT:

3 Q Did you initiate the e-mail?

4 A I don't remember.

5 Q Do you recall if he sent the e-mail in  
6 response to a phone call from you?

7 A I do not remember.

8 Q Do you recall if he sent the e-mail in  
9 response to some form of question from you regardless  
10 of whether it took an electronic or a telephone form?

11 A It would have been definitely in relation to  
12 a question. I do not recollect whether it was via  
13 telephone, via e-mail. I specifically recollect that  
14 we were in touch with Mr. Lubar to let him know that  
15 I needed to make a declaration similar to before and  
16 that we needed to discuss issues that had already  
17 been discussed in preparation for an earlier  
18 declaration.

19 Q Okay.

20 A That's my recollection.

21 Q And when you say an earlier declaration, you  
22 mean in the Swiger case?

23 A I do.

24 MR. FELDT: Okay. I got to ask, Tina, do you

1 have this e-mail? Are you aware of this e-mail?

2 MS. SOLIS: Are you making a request for it?

3 MR. FELDT: I thought we did.

4 MS. SOLIS: I do not have it, but that does not  
5 mean that I cannot ask the client for it.

6 MR. FELDT: Okay. Well, maybe you're answering  
7 my question. You didn't see it and determine it to  
8 be nonresponsive?

9 MS. SOLIS: My answer is the same as it was when  
10 we spoke the other day.

11 MR. FELDT: Okay. Well, I personally think it's  
12 responsive to our requests.

13 MS. SOLIS: I think a lot of that depends who  
14 else may be on that e-mail, but --

15 MR. FELDT: Well, I obviously don't know anything  
16 about that.

17 BY MR. FELDT:

18 Q Ms. D'Agostino, without talking about who  
19 else may have received the e-mail, other information  
20 that may be in the e-mail other than specifically  
21 with regard to the statement that serves as the basis  
22 for this sentence in Paragraph 3, "Mr. Lubar has no  
23 immediate plans to leave the United Kingdom and to  
24 return to the U.S. to live on a permanent basis," do

1 you recall the text that Mr. Lubar used to convey  
2 that thought to you that resulted in this sentence in  
3 Paragraph 3 of your declaration?

4 A Not specifically.

5 Q Did he specifically use the word "permanent"?

6 MS. SOLIS: Objection. Asked and answered.

7 BY MR. FELDT:

8 Q This is more precise, but is the word  
9 "permanent" --

10 MS. SOLIS: She can't recall what he said, but go  
11 ahead.

12 BY MR. FELDT:

13 Q Is the word "permanent" your word or his?

14 A I don't remember.

15 Q Okay. Then I guess I want to ask you the  
16 same question about the sentence in Paragraph 4 that  
17 deals with "partner resident," and is that the same  
18 as you said about Mr. Lubar that it means she works  
19 in the Tokyo office?

20 A It is, that's correct.

21 Q Then there is a sentence, "Ms. Yano has  
22 resided in Japan continuously since 1992."

23 What is that based upon?

24 A That is based upon telephone communication,

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1 e-mail communication between Ms. Yano and I when we  
2 were establishing certain facts about Ms. Yano not  
3 having had the benefit of earlier preparation as we  
4 did with Mr. Lubar and is he ready to make this  
5 statement.

6 Q You mean oral information in discussing it  
7 with her specifically?

8 A Yes. I specifically recollect leaving voice  
9 mail messages, receiving voice mail messages, and I  
10 do believe there was an e-mail too. The time  
11 difference between Philadelphia and Tokyo sometimes  
12 makes direct person-to-person communication sometimes  
13 difficult, so we find ourselves sometimes exchanging  
14 voice mails or e-mails, of course.

15 Q I understand that. I guess I would have a  
16 similar comment about any e-mail, that it's  
17 responsive, but let me move on to the voice mail  
18 message.

19 Assuming that there was a voice mail  
20 message, is that something you retained?

21 A It is not.

22 Q In Paragraph 4 there is a sentence "Ms. Yano  
23 has no immediate plans to leave Japan and to return  
24 to the U.S. to live on a permanent basis."

1 Where does that information come from?

2 A From either the exchange of voice mails or  
3 the exchange of e-mails. The exact one of those two  
4 places I cannot answer at this point.

5 Q Can you recall ever specifically discussing  
6 not via some voice mail recorded or e-mail but  
7 actually talking directly on the telephone or in  
8 person with Ms. Yano about whether she intends to  
9 stay in Japan or leaving Japan or return to the U.S.?

10 A No, not person to person.

11 Q And the word "permanent" in that sentence, do  
12 you recall if that came from her in the voice mail or  
13 e-mail, whatever form the communication took, or is  
14 that your word?

15 A I do not recollect.

16 MR. FELDT: All right. I'll pass the witness.

## EXAMINATION

18 BY MS. SOLIS:

19 Q Ms. D'Agostino, I just have a couple  
20 follow-up questions.

21 Do you remember when Mr. Feldt was asking  
22 you the last time you saw Mr. Lubar person to person?  
23 Do you remember that line of questioning?

24 A Yes.

1 MR. FELDT: That's all still information from  
2 him, right?

3 MS. SOLIS: Well, not if she visibly sees him  
4 there. I think that's seeing it with her own two  
5 eyes. I just want to make sure the record is clear.

6 BY MR. FELDT:

7 Q Do you have any information about Mr. Lubar's  
8 intent other than what he's told you?

9 A I do not.

10 Q Do you have any information -- let me clarify  
11 that question.

12 Do you have any information about  
13 Mr. Lubar's intent as to where he will live or where  
14 he has considered to be his domicile other than what  
15 he has told you?

16 A I have not.

17 Q Do you have any information about Ms. Yano's  
18 intent about where she intends to live or where she  
19 has intended to live in the past or what she  
20 considers to be her domicile other than what she has  
21 told you?

22 A I have not.

23 MR. FELDT: I'll pass the witness.

24

**NOTICE FOR  
EXHIBIT E TO THE JULY 10, 2008  
MOTION TO COMPEL  
OF THE DEFENDANT,  
CITY OF EAST CHICAGO**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

MORGAN, LEWIS & BOCKIUS LLP,	)	No. 08-cv-2748
Plaintiff,	)	
v.	)	Judge: Rebecca R. Pallmeyer
CITY OF EAST CHICAGO,	)	Magistrate Judge:
Defendant.	)	Sidney I. Schenkier

**NOTICE OF RESTRICTED AND SEALED DOCUMENTS  
PURSUANT TO LR 26.2 and LR 5.8: EXHIBIT E TO MOTION TO COMPEL**

**Statement:** The Defendant, the City of East Chicago, ("East Chicago"), notifies the Court that Exhibit E to its Motion To Compel and related Brief is designated as a restricted document for filing with the Court under seal. Exhibit E includes pages numbered ML 38-40, 48-51, 53-54, 58-59, 61, 63, 68, 90, 91, 101, 102. These pages were produced by the Plaintiff in response to the City of East Chicago's Requests For Production and contain materials designated as restricted and confidential in accordance with the Court's Stipulation and Order Governing the Protection and Exchange of Confidential Material of June 24, 2008 and the Court's Order of July 10, 2008. The pages comprising Exhibit E to East Chicago's July 10, 2008, Motion To Compel and related Brief are provided under seal for filing pursuant to LR 26.2 and LR 5.8.

Pursuant to LR 26.2(c), copies of the June 24, 2008 and July 10, 2008 restricting orders have been included along with the restricted and sealed document presented for filing.

David C. Jensen  
djensen@eichhorn-law.com

Robert J. Feldt  
rfeldt@eichhorn-law.com

**EICHHORN & EICHHORN, LLP**  
200 Russell Street  
P.O. Box 6328  
Hammond, IN 46320  
219-931-0560

Respectfully submitted,

**EICHHORN & EICHHORN, LLP**

By:



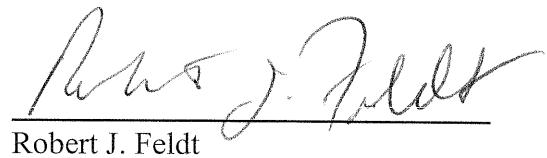
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One of the attorneys for the Defendant,  
City of East Chicago

**CERTIFICATE OF SERVICE**

I, Robert J. Feldt, hereby certify that on the 10<sup>th</sup> day of July, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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\_\_\_\_\_  
Robert J. Feldt

**EXHIBIT F TO THE JULY 10, 2008  
MOTION TO COMPEL  
OF THE DEFENDANT,  
CITY OF EAST CHICAGO**

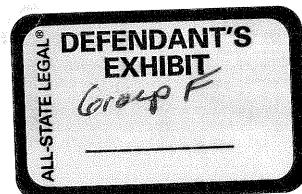
**Robert J. Feldt**

---

**From:** "Barbara Cernick" <bcernick@eichhorn-law.com>  
**To:** <tbsolis@uhlaw.com>  
**Cc:** "Robert Feldt" <rfeldt@eichhorn-law.com>  
**Sent:** Tuesday, July 01, 2008 3:07 PM  
**Attach:** Solis-ltr-re 7-3-08 deps.pdf; Yano-subpoena.pdf; DAgostino Dep Ex 1.pdf; DAgostino Dep Ex 2.pdf; DAgostino Dep Ex 3(1).pdf; DAgostino Dep Ex 3(2).pdf; DAgostino Dep Ex 3(3).pdf; DAgostino Dep Ex 3(4).pdf; DAgostino Dep Ex 4.pdf; DAgostino-subpoena.pdf; Lubar-subpoena.pdf  
**Subject:** Morgan Lewis v. City of East Chicago, Our File No. 411.11197

Sent at the request of Robert J. Feldt, please see the attached correspondence and enclosures to that letter. Hard copies will follow by Federal Express delivery. Thank you. Barbara, Secretary

Barbara R. Cernick  
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\* ALSO ADMITTED IN ILLINOIS  
 \*\*ALSO ADMITTED IN ILLINOIS & MINNESOTA

July 1, 2008

PLEASE REPLY TO: Hammond Office

VIA FEDERAL EXPRESS  
 and E-MAIL TRANSMISSION

Ms. Tina B. Solis  
**UNGARETTI & HARRIS LLP**  
 3500 Three First National Plaza  
 Chicago, IL 60602

Re: Morgan Lewis Bockius, LLP v. City of East Chicago  
 Cause No. 1:08-cv-2748  
 Our File No. 411.11197

Dear Ms. Solis:

This will acknowledge my agreement with you to proceed with the deposition of Ms. D'Agostino via a telephonic deposition with all parties calling a central telephone number at 2:00 p.m. EDT, 1:00 p.m. CDT, on July 3, 2008. It is my understanding that you are agreeable to the court reporter being present with me at our offices in Hammond, Indiana and swearing in the witness in Philadelphia via telephone. The court reporter which we have retained is Merrill Legalink, Chicago, Illinois. We would be most appreciative if you could confirm that this process is acceptable to you and your client in writing by return e-mail. The call-in information for this telephone deposition is as follows: dial in number: 877-322-9654, participant code: 510059. A copy of the notice of deposition/subpoena is enclosed.

Copies of the marked exhibits also are enclosed and are attached as PDF files to the electronic version of this letter. They consist of the Plaintiff's Responses And Objections To Defendant's Requests For Admission, Supporting Interrogatory, And Supporting Request For Production, the Plaintiff's Responses And Objections To Defendant's First Requests For Production Of Documents, the documents produced and Ms. D'Agostino's Declaration and attachments. Per your representation during our June 30, 2008 telephone conference, it is my understanding that you have produced all responsive documents and that there are no responsive documents which have been withheld, for example, due to attorney-client privilege, and hence, no privilege log. We would be most appreciative if you could confirm this in writing by return e-mail, as well.

**EICHHORN & EICHHORN, LLP**

Ms. Tina B. Solis

July 1, 2008

Page 2

Finally, also enclosed are notices of deposition/subpoenas for Mr. Charles Lubar and Ms. Lisa Yano. As I indicated during our June 30, 2008 telephone conference, these are being submitted to you only to preserve our requests for these depositions for the record. We acknowledge that the Honorable Rebecca P. Pallmeyer already has rejected our request to take these depositions and that you object to these depositions and the notices.

Please contact me if you have any questions or comments.

Very truly yours,

**EICHHORN & EICHHORN, LLP**

By:   
Robert J. Feldt

RJF:brc

Enclosures

**Issued by the**  
**UNITED STATES DISTRICT COURT**

NORTHERN

DISTRICT OF

ILLINOIS

MORGAN, LEWIS &amp; BOCKIUS LLP

V.

CITY OF EAST CHICAGO

**SUBPOENA IN A CIVIL CASE**Case Number:<sup>1</sup> 08-cv-2748

TO: CLARE D'AGOSTINO  
 c/o F. Thomas Hecht/Tina B. Solis, UNGARETTI & HARRIS  
 3500 Three First National Plaza, Chicago, IL 60602

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case **telephonically**.

PLACE OF DEPOSITION	Telephonically at EICHHORN & EICHHORN, LLP (with Court Reporter) 200 Russell Street, Hammond, IN 46325	DATE AND TIME
		7/3/08 2:00 p.m. EDT

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Any and all documents responsive to the June 19, 2008 First Requests For Production Of Documents and Requests for Admission, Supporting Interrogatory, And Supporting Request For Production of the Defendant, City of East Chicago.

PLACE	Telephonically at EICHHORN & EICHHORN, LLP (with Court Reporter) 200 Russell Street, Hammond, IN 46325	DATE AND TIME
		7/3/08 2:00 p.m. EDT

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Attorney for the Defendant	7/1/2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

David C. Jensen, Robert J. Feldt, EICHHORN &amp; EICHHORN, LLP, 200 Russell Street, Hammond, IN 46325

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

## PROOF OF SERVICE

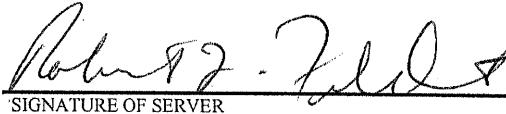
	DATE	PLACE
SERVED	7/1/2008	200 Russell Street Hammond, IN 46325
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
CLARE D'AGOSTINO c/o F. Thomas Hecht/Tina B. Solis	Overnight Mail and E-mail as PDF attachment	
SERVED BY (PRINT NAME)	TITLE	
Robert J. Feldt	Attorney	

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 7/1/2008

DATE

  
SIGNATURE OF SERVER

## ADDRESS OF SERVER

200 Russell Street, Hammond, IN 46325

## Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

## (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;  
(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

AO88 (Rev. 12/06) Subpoena in a Civil Case

**Issued by the**  
**UNITED STATES DISTRICT COURT**

NORTHERN

DISTRICT OF

ILLINOIS

MORGAN, LEWIS &amp; BOCKIUS LLP

V.

CITY OF EAST CHICAGO

**SUBPOENA IN A CIVIL CASE**Case Number:<sup>1</sup> 08-cv-2748

TO: **CHARLES LUBAR**  
 c/o F. Thomas Hecht/Tina B. Solis, UNGARETTI & HARRIS  
 3500 Three First National Plaza, Chicago, IL 60602

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	UNGARETTI & HARRIS 3500 Three First National Plaza, Chicago, IL 60602	DATE AND TIME
		7/3/08 8:00 a.m. CDT

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Any and all documents responsive to the June 19, 2008 First Requests For Production Of Documents and Requests for Admission, Supporting Interrogatory, And Supporting Request For Production of the Defendant, City of East Chicago.

PLACE	UNGARETTI & HARRIS 3500 Three First National Plaza, Chicago, IL 60602	DATE AND TIME
		7/3/08 8:00 a.m. CDT

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Attorney for the Defendant	7/1/2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

David C. Jensen, Robert J. Feldt, EICHHORN &amp; EICHHORN, LLP, 200 Russell Street, Hammond, IN 46325

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 12/06) Subpoena in a Civil Case

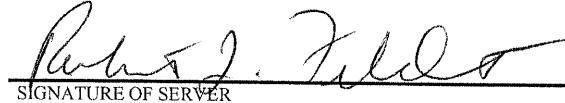
## PROOF OF SERVICE

	DATE	PLACE
SERVED	7/1/2008	200 Russell Street Hammond, IN 46325
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
CHARLES LUBAR c/o F. Thomas Hecht/Tina B. Solis	Overnight Mail and E-mail as PDF attachment	
SERVED BY (PRINT NAME)	TITLE	
Robert J. Feldt	Attorney	

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 7/1/2008  
DATE

  
\_\_\_\_\_  
SIGNATURE OF SERVER

## ADDRESS OF SERVER

200 Russell Street, Hammond, IN 46325

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

## (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;  
(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or  
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or  
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

**Issued by the**  
**UNITED STATES DISTRICT COURT**

NORTHERN

DISTRICT OF

ILLINOIS

MORGAN, LEWIS &amp; BOCKIUS LLP

V.

CITY OF EAST CHICAGO

**SUBPOENA IN A CIVIL CASE**Case Number:<sup>1</sup> 08-cv-2748

TO: **LISA YANO**  
 c/o F. Thomas Hecht/Tina B. Solis, UNGARETTI & HARRIS  
 3500 Three First National Plaza, Chicago, IL 60602

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	UNGARETTI & HARRIS 3500 Three First National Plaza, Chicago, IL 60602	DATE AND TIME
		7/3/08 11:00 a.m. CDT

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Any and all documents responsive to the June 19, 2008 First Requests For Production Of Documents and Requests for Admission, Supporting Interrogatory, And Supporting Request For Production of the Defendant, City of East Chicago.

PLACE	UNGARETTI & HARRIS 3500 Three First National Plaza, Chicago, IL 60602	DATE AND TIME
		7/3/08 11:00 a.m. CDT

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Attorney for the Defendant	7/1/2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

David C. Jensen, Robert J. Feldt, EICHHORN &amp; EICHHORN, LLP, 200 Russell Street, Hammond, IN 46325

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 12/06) Subpoena in a Civil Case

## PROOF OF SERVICE

DATE		PLACE
SERVED	7/1/2008	200 Russell Street Hammond, IN 46325
SERVED ON (PRINT NAME)		MANNER OF SERVICE
LISA YANO c/o F. Thomas Hecht/Tina B. Solis		Overnight Mail and E-mail as PDF attachment
SERVED BY (PRINT NAME)		TITLE
Robert J. Feldt		Attorney

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 7/1/2008  
DATE

  
\_\_\_\_\_  
SIGNATURE OF SERVER

## ADDRESS OF SERVER

200 Russell Street, Hammond, IN 46325

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(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

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(i) fails to allow reasonable time for compliance;  
(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

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(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or  
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

**Robert J. Feldt**

---

**From:** "Barbara Cernick" <bcernick@eichhorn-law.com>  
**To:** <tbsolis@uhlaw.com>  
**Cc:** "Robert Feldt" <rfeldt@eichhorn-law.com>  
**Sent:** Wednesday, July 02, 2008 1:57 PM  
**Attach:** Yano-NOD.pdf; DAgostino-NOD.pdf; Lubar-NOD.pdf  
**Subject:** Morgan Lewis v. City of East Chicago, Our File No. 411.11197

Sent at the request of Robert J. Feldt, please see the attached Notices Of Deposition. Hard copies will follow by U.S. mail with no cover letter. Thank you. Barbara, Secretary

Barbara R. Cernick  
[bcernick@eichhorn-law.com](mailto:bcernick@eichhorn-law.com)  
Eichhorn & Eichhorn, LLP  
200 Russell Street  
P.O. Box 6328  
Hammond, IN 46325  
(219) 931-0560 - voice  
(219) 931-5370 - facsimile

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DIVISION OF ILLINOIS

MORGAN, LEWIS & BOCKIUS LLP, )  
Plaintiff, )  
v. )  
CITY OF EAST CHICAGO, )  
Defendant. )  
)  
)  
)  
)  
)  
)  
No. 08-cv-2748  
Judge: Rebecca R. Pallmeyer  
Magistrate Judge:  
Sidney I. Schenker

**NOTICE OF DEPOSITION**

To: Mr. Charles Lubar  
c/o F. Thomas Hecht/Tina B. Solis  
UNGARETTI & HARRIS LLP  
3500 Three First National Plaza  
Chicago, IL 60602

PLEASE TAKE NOTICE that on the 3<sup>rd</sup> day of July, 2008, at the hour of 8:00 a.m., prevailing time, at the offices of Ungaretti & Harris LLP, 3500 Three First National Plaza, Chicago, IL 60602, the undersigned will proceed to take the deposition of Mr. Charles Lubar before a duly authorized court reporter. The deposition will continue without interruption until completed. The deponent is requested to bring the documents listed in the Subpoena previously served upon you.

Respectfully submitted,

## EICHHORN & EICHHORN, LLP

By: John J. Dill  
One of the attorneys for the Defendant,  
City of East Chicago

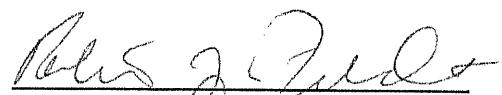
David C. Jensen  
Robert J. Feldt  
**EICHHORN & EICHHORN, LLP**  
200 Russell Street  
P.O. Box 6328  
Hammond, IN 46320  
219-931-0560

**CERTIFICATE OF SERVICE**

I, Robert J. Feldt, certify that on the 2<sup>nd</sup> day of July, 2008, a true and complete copy of the foregoing Notice Of Deposition was served upon:

Tina B. Solis  
UNGARETTI & HARRIS LLP  
3500 Three First National Plaza  
Chicago, IL 60602  
tbsolis@uhlaw.com

by depositing a copy in the United States mail, first class postage prepaid, in a properly addressed envelope and by e-mail transmission.

  
Robert J. Feldt

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DIVISION OF ILLINOIS

MORGAN, LEWIS & BOCKIUS LLP, )  
Plaintiff, )  
v. )  
CITY OF EAST CHICAGO, )  
Defendant. )  
No. 08-cv-2748  
Judge: Rebecca R. Pallmeyer  
Magistrate Judge:  
Sidney I. Schenckier

**NOTICE OF TELEPHONIC DEPOSITION**

To: Ms. Clare D'Agostino  
c/o F. Thomas Hecht/Tina B. Solis  
UNGARETTI & HARRIS LLP  
3500 Three First National Plaza  
Chicago, IL 60602

PLEASE TAKE NOTICE that on the 3<sup>rd</sup> day of July, 2008, at the hour of 1:00 p.m., prevailing time, the undersigned will proceed to take the telephonic deposition of Ms. Clare D'Agostino at the offices of Eichhorn & Eichhorn, LLP, 200 Russell Street, Hammond, IN 46320 with a duly authorized court reporter present. The deposition will continue without interruption until completed. The deponent is requested to have available the documents listed in the Subpoena previously served upon you.

Respectfully submitted,

EICHHORN & EICHHORN, LLP

By: Robert J. Zeldin  
One of the attorneys for the Defendant,  
City of East Chicago

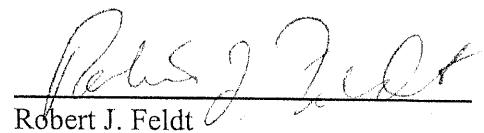
David C. Jensen  
Robert J. Feldt  
**EICHHORN & EICHHORN, LLP**  
200 Russell Street  
P.O. Box 6328  
Hammond, IN 46320  
219-931-0560

**CERTIFICATE OF SERVICE**

I, Robert J. Feldt, certify that on the July day of July, 2008, a true and complete copy of the foregoing Notice Of Telephonic Deposition was served upon:

Tina B. Solis  
UNGARETTI & HARRIS LLP  
3500 Three First National Plaza  
Chicago, IL 60602  
tbsolis@uhlaw.com

by depositing a copy in the United States mail, first class postage prepaid, in a properly addressed envelope and by e-mail transmission.

  
\_\_\_\_\_  
Robert J. Feldt

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DIVISION OF ILLINOIS

**NOTICE OF DEPOSITION**

To: Ms. Lisa Yano  
c/o F. Thomas Hecht/Tina B. Solis  
UNGARETTI & HARRIS LLP  
3500 Three First National Plaza  
Chicago, IL 60602

PLEASE TAKE NOTICE that on the 3<sup>rd</sup> day of July, 2008, at the hour of 11:00 a.m., prevailing time, at the offices of Ungaretti & Harris LLP, 3500 Three First National Plaza, Chicago, IL 60602, the undersigned will proceed to take the deposition of Ms. Linda Yano before a duly authorized court reporter. The deposition will continue without interruption until completed. The deponent is requested to bring the documents listed in the Subpoena previously served upon you.

Respectfully submitted,

## EICHHORN & EICHHORN, LLP

By: John J. Dill  
One of the attorneys for the Defendant,  
City of East Chicago

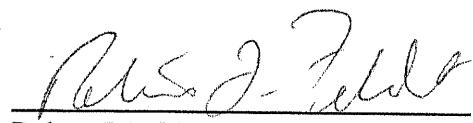
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**CERTIFICATE OF SERVICE**

I, Robert J. Feldt, certify that on the July day of July, 2008, a true and complete copy of the foregoing Notice Of Deposition was served upon:

Tina B. Solis  
UNGARETTI & HARRIS  
3500 Three First National Plaza  
Chicago, IL 60602  
tbsolis@uhlaw.com

by depositing a copy in the United States mail, first class postage prepaid, in a properly addressed envelope and by e-mail transmission.

  
\_\_\_\_\_  
Robert J. Feldt